**Section 401.160 Voluntary Surrender of License**

a) At any time, a licensee may offer to voluntarily surrender a valid license. The licensee must verify whether:

1) the Department is investigating the child welfare agency for any licensing complaint or report of suspected abuse or neglect involving the agency;

2) litigation is pending between the child welfare agency and the Department; or

3) the child welfare agency suspects that it or facilities supervised by it are under investigation by any state agency of any state, their respective inspectors general, or any local, State or federal law enforcement agency.

b) The child welfare agency shall attach to the offer of voluntary surrender a complete listing of the names and addresses of all licensed child care facilities supervised by the agency, of any pending license applications which have not yet been determined by the agency, and of any license exempt day care homes, relative care homes, independent living facilities, or other programs operated by the child welfare agency.

c) Before accepting a voluntary surrender of license, the regional licensing administrator shall review the listing of the names and addresses of the facilities and programs supervised by the child welfare agency to determine whether it is complete and correct. In addition, the regional licensing administrator shall determine whether:

1) the Department is investigating the child welfare agency for any licensing complaint or report of suspected abuse or neglect involving the agency;

2) litigation is pending between the child welfare agency and the Department; and

3) the Department has been notified by another state agency, their respective inspectors general, or any local, State or federal law enforcement agency that the child welfare agency is under investigation.

d) The Department may discharge its obligation to determine whether an investigation is pending and whether the Department has received notice of an investigation by the DCFS-Office of the Inspector General or any local, State or federal law enforcement agency, by examining local licensing records, reviewing the voluntary offer of surrender signed by the child welfare agency, checking with the Central Office of Licensing, the State Central Register, the DCFS-Office of Inspector General, the Office of Legal Services, the Division of Purchase of Service Monitoring, and the Office of Internal Audits.

e) If the licensee has verified and the Department has determined that the child welfare agency is not under investigation and not engaged in litigation with the Department, a licensing administrator may, but is not required to, accept the offered voluntary surrender of the license. Such voluntary surrenders must be executed on the form prescribed in Appendix E of this Part.

f) If the licensee has verified and the Department has determined that the child welfare agency is under investigation or is engaged in litigation against the Department, only a DCFS licensing administrator may, but is not required to, accept the offered voluntary surrender of the license. Such voluntary surrenders must be executed on the form prescribed in Appendix F of this Part.

g) If, at any time after the acceptance of a voluntary surrender of license, the Department discovers that the child welfare agency knew or should have known that it was under investigation at the time it offered to surrender its license and failed to disclose the information to the Department, the Department at its option may set aside its acceptance of the surrender and proceed to take appropriate action against the licensee and the license, including, but not limited to, the revocation of the license or refusal to renew the license.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)